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Domestic Spying Needs High-Level Shaking Out

RECENT DEVELOPMENTS indicate the necessity of full-scale review and reevaluation of all laws written and under review pertaining to the government's right and non-rights in the area of electronic surveillance of the nation's citizenry. Such a review is in order, that is, if provisions of the Constitution's 1st and 4th Amendments contained in the Bill of Rights are not to be twisted beyond recognition.

The people of this country are at least entitled to know to what extent their government has the right to listen in on them and then turn what they say against them. Storm signals are presently visible. Original wire-tap authority carefully legislated by Congress during the Johnson administration a few years ago may be turning into a runaway horse. The Nixon administration is applying the broadest interpretations of that right. At the same time, the federal courts — highest and lowest — are not in agreement. If they are, then the public is confused over the growing number of seemingly conflicting decisions issuing from the courts on the applications of "bugging" in individual cases.

It is time, therefore, indeed for the strict constructionists to get together and straighten out this mass of confusion. Domestic spying has become big business in this country. This is a chilling thought. Moreover, it is making tempers short and creating massive distrust among the people — even within the government itself. It is giving birth to individual timidity, spreading fear and creating paranoia. And it must stop.

We have, within recent weeks, learned that domestic spying, carried out by multiple federal agencies, has produced an overlapping effect in which agents have outnumbered non-agents at various gatherings. In effect, spies have been spying on spies in pursuit of information on anybody — including those speaking the "opposite line." This has been revealed in the tactics of Army Intelligence units.

This is one kind of eavesdropping carried out by one agency which has no business in it. There are other kinds carried out by the FBI and the CIA — equally massive, equally subtle and now, equally frightening. But what of electronic surveillance?

Now we have Congress itself concerned and investigating the alleged "electronic eavesdropping" of its own membership as contained in charges made by Rep. Hale Boggs, D-La., against the FBI and Director J. Edgar Hoover. This is a most serious indictment — and if true — calls for equally serious remedial action within the FBI and the Justice Department. It is also essential that Rep. Boggs come forward soonest with specific information, if he has it.

There is no clearer indication, however, of differences within the judiciary itself than decisions handed down last week by the U.S. Supreme Court in a Constitutional interpretive 5-4 ruling and the 6th U.S. Circuit Court of Appeals in the case of Lawrence (Pum) Plamondon, 25-year-old White Panther leader accused of bombing a CIA office in Ann Arbor two and a half years ago.

In the first, the nation's highest tribunal put its stamp of approval on electronic eavesdropping by police of suspected narcotics dealers when a volunteer "informer" is "bugged" to pick up conversation with the suspect. The narrow majority rationale of the court is that in such instances the suspect suffers because of his misplaced trust in the informer, not because of the electronic device employed in the tactic.

Bugging of any kind is a miserable practice. As we have seen, it can sprout wings and run uncontrolled catching up innocents, damaging reputations and causing much grief.

But there we have it. The U.S. Court finds informer bugging not un-Constitutional. This runs much too fine a line for us, for what the court is saying is "watch what you say, to whom you say it — and trust nobody." That's a highly questionable directive to the people of this country.

In contrast, however, the 6th Circuit U.S. Appeals Court has ruled, 3-2, that the Justice Department cannot use wire-tap statements attributed to Plamondon to build a case against him without first revealing their contents to the defendant. Two other federal courts have ruled the opposite on the issue.

Is the Supreme Court interpretive ruling the same as or different from the Plamendon ruling? Are the two in conflict on the same issue of principle as applied to the right of free speech (1st Amendment) or rights against illegal search and seizure in their own persons (4th Amendment)? We sense that they are.

The mushrooming of domestic spying and growth of electronic surveillance capabilities in this country need a wringing out. The people at least have a right to know where they stand when they speak or write or to what rights of privacy they are entitled in their own domiciles or places of business.